

**Philip Samaroo d/b/a Uptown Associates and Samaroo Management and Service Employees International Union, Local 32E, AFL-CIO.**  
Case AO-297

July 13, 1992

ADVISORY OPINION

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND OVIATT

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board Rules and Regulations, on May 13, 1992, Philip Samaroo d/b/a Uptown Associates and Samaroo Management (Petitioners) filed a petition for an Advisory Opinion as to whether the Board would assert jurisdiction over their operations. In pertinent part, the petition alleges as follows:

1. A proceeding, Case Nos. SU-58100 and SU-58101, is currently pending before the New York State Employment Relations Board (NYSERB) in which the Service Employees International Union, Local 32E, AFL-CIO (the Union) is attempting to obtain certification as representative of a single-employee unit at a building owned by Uptown Associates at 500 West 215th Street.

2. Samaroo Management is engaged in the business of rental building management. Samaroo Management manages the building owned by Uptown Associates at 500 West 215th Street, a rental building with 27 residential units and 4 commercial units.

3. Samaroo Management and Uptown Associates are jointly controlled and directed by Philip Samaroo, the proprietor and general partner, respectively, of both organizations.

4. During the past calendar year, Samaroo Management's gross revenue from all sales or performance of services equaled or exceeded \$1 million, and its purchases of materials or services directly from outside the State exceeded \$50,000.

5. The aforesaid commerce data has been neither admitted nor denied by the Union, and has not been considered by the NYSERB.

6. There is no representation or unfair labor practice proceeding pending before the Board.

Although all parties were served with a copy of the petition for an Advisory Opinion, none filed a response.

Having duly considered the matter,<sup>1</sup> we are of the opinion that the Board would assert jurisdiction over the Petitioners. It is well established that the commerce data of joint or single employers may appropriately be combined for jurisdictional purposes.<sup>2</sup> Here, the petition alleges that the Petitioners are jointly controlled and directed by Philip Samaroo, the proprietor and general partner, respectively, of both organizations. Thus, given that Petitioner Samaroo Management's commerce data alone clearly satisfies the Board's jurisdictional standards,<sup>3</sup> assuming that the Petitioners are in fact a joint or single employer of the employee at the subject building, we find that jurisdiction may properly be asserted over the Petitioners under the Board's current standards.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over Samaroo Management and Uptown Associates.<sup>4</sup>

MEMBER OVIATT, dissenting.

Contrary to my colleagues, I would require the Petitioners to submit further information regarding their real estate operations before granting the petition and issuing an Advisory Opinion. See my dissenting opinions in *373-381 South Broadway Associates*, 303 NLRB 973 (1990), further proceedings 304 NLRB 1108 (1991), and *135-45 West Kingsbridge Avenue Assoc.*, 300 NLRB 946 (1990).

<sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>2</sup> See *373-381 South Broadway Associates*, 304 NLRB 1108 (1991), and cases cited there.

<sup>3</sup> Cf. *135-45 West Kingsbridge Avenue Assoc.*, 300 NLRB 946 (1990) (asserting jurisdiction over real estate management company having gross annual revenues equaling or exceeding \$1 million and out-of-state purchases in excess of \$50,000).

<sup>4</sup> The Board's advisory opinion proceedings under Sec. 102.98(a) of the Board's Rules are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view as to whether the Board would certify the Union as representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40(e) of the Board's Rules.